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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,176	07/26/2001	Edward R. Smith	OPF 41	7106
7590	11/19/2003		EXAMINER	
Thomas P. McCracken Powder Ject Pharmaceuticals Plc Florey House, Oxford Science Park Oxford, OX4 4GA UNITED KINGDOM			HAN, MARK K	
			ART UNIT	PAPER NUMBER
			3763	9
DATE MAILED: 11/19/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

CB

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/916,176	SMITH ET AL.	
	<b>Examiner</b>	Art Unit	
	Mark K Han	3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 22 September 2003.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 5,6,8-16,26,27 and 31-33 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4,7,17-25,28-30 and 34 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 July 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of the species depicted in Figure 3 in Paper No. 6 is acknowledged.
2. Claims 5, 6, 8-14, 16, 26, 27 and 31-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6. Additionally, it is believed that claim 15 is drawn to a nonelected species depicted in Figure 7. Therefore, claim 15 has also been withdrawn from further consideration.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 7, 17-25, 28-30 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,630,796 to Bellhouse et al.

Bellhouse et al. discloses a needless injector having a cassette 28 that has a first cassette part 30, first rupturable membrane 33, second cassette part 31, second rupturable membrane 34 and particles 32. See Figures 1 and 8. Bellhouse et al. also describes the claimed method in col. 12, lines 29-43 in the specification.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the general state of the art with regards to needleless injectors with rupturable membranes.

U.S. Patent No. 5,947,928 to Muller.

U.S. Patent No. 6,010,478 to Bellhouse et al.

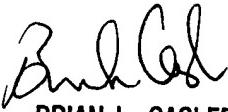
U.S. Patent No. 6,475,181 to Potter et al.

U.S. Patent No. 6,592,545 to Bellhouse et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark K Han whose telephone number is 703-308-4543. The examiner can normally be reached on Monday to Friday, 9 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

  
BRIAN L. CASLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700



Mark Han  
Patent Examiner  
Art Unit 3763

mkh  
November 4, 2003